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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JAMES ERNEST DICKERSON,

11 Petitioner,

12 v.

13 CAROL PORTER, SUPERINTENDENT,
W.C.C.,

14 Respondent.

Case No. C05-5793RJB

ORDER DECLINING TO
RECUSE VOLUNTARILY
AND REFERRING
MOTION TO CHIEF
JUDGE

15 This matter comes before the Court on Petitioner's Motion to Recuse. Dkt. 123. The Court has
16 reviewed the relevant documents and the remainder of the file.

17 **I. FACTS**

18 On June 1, 2006, U.S. Magistrate Judge J. Kelley Arnold recommended dismissal of the petition
19 with prejudice as time barred pursuant to the Antiterrorism and Effective Death Penalty Act's ("AEDPA")
20 Section 2244(d)(1). Dkt. 85-1. The Report and Recommendation was adopted on July 31, 2006. Dkt.
21 99. After this Court adopted the Report and Recommendation and dismissed the petition, Petitioner made
22 several new motions, each of which were stricken as moot. Dkt. 120. Petitioner was warned that any
23 further motions would be docketed in this case, but no action would be taken on them. *Id.*

24 Petitioner now moves for this Court to recuse itself arguing that his conviction constituted a fraud
25 against the court and this Court's dismissal of his petition "shows a bias." Dkt. 123. Considering the
26 nature of this motion, and even though the motion is probably moot since this is a closed case, the Court
27 will rule on the motion to recuse, though no action will be taken on any other pending motions.

1 **II. DISCUSSION**

2 Local Rule GR 8(c) provides as follows:

3 Whenever a motion to recuse due to alleged bias or prejudice directed at a judge of this court is
4 filed pursuant to 28 U.S.C. § 144, the clerk shall refer it to the chief judge. If the motion is
5 directed at the chief judge, the clerk shall refer it to the next senior active judge. Before a ruling is
6 made on a motion to recuse any judge, the challenged judge will be afforded an opportunity to
7 review the motion papers and decide whether to recuse voluntarily.

8 **A. Decision whether to recuse voluntarily**

9 Pursuant to 28 U.S.C. § 455(a), a judge of the United States shall disqualify himself in any
10 proceeding in which his impartiality might reasonably be questioned. The judge shall also disqualify
11 himself in circumstances where the judge has a personal bias or prejudice concerning a party or personal
12 knowledge of disputed evidentiary facts concerning the proceeding. 28 U.S.C. § 455(a)-(b)(1).

13 Petitioner has not made a sufficient showing of personal bias or prejudice concerning a party to this
14 case, nor has he shown that the undersigned judge has personal knowledge of disputed evidentiary facts
15 concerning this proceeding. Adverse rulings by a judge are not sufficient to justify disqualification. *Davis*
16 *v. Fendler*, 650 F.2d 1154, 1163 (9th Cir.1981); *see also Liteky v. United States*, 510 U.S. 540, 555
17 (1994) ("judicial rulings alone almost never constitute valid basis for a bias or partiality motion.").

18 This Court makes rulings in each case based upon the issues presented by the parties or upon *sua*
19 *sponte* review by the Court. The Court has no bias or prejudice in this case that would support a recusal or
20 disqualification. The Court should decline to recuse voluntarily.

21 **B. Referral to Chief Judge**

22 Petitioner's request is a motion to recuse due to alleged bias or prejudice, and the motion should be
23 referred to the chief judge for decision, pursuant to Local Rule GR 8(c).

24 **III. ORDER**

25 Accordingly, it is hereby **ORDERED** that the undersigned judge **DECLINES** to recuse
26 voluntarily. Petitioner's Motion to Recuse (Dkt. 123) is **REFERRED** to Chief Judge Robert S. Lasnik for
27 decision.

The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address. The Clerk is further directed to place Petitioner's Motion to Recuse (Dkt. 123) on Judge Lasnik's motion calendar.

DATED this 28th day of August, 2006.

Robert J. Bryan

Robert J. Bryan
United States District Judge